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REMARKS

Claims 1-10 remain pending in this application, with claim 1 being independent.

Claim Rejections – 35 U.S.C. § 102/103

- I -

Claims 1-9 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly obvious over U.S. Patent No. 5,292,578 ("Kölzer"). Reconsideration and withdrawal of this rejection is requested for at least the following reasons.

Kölzer is cited as disclosing

a woven (patterned) glass fiber textile fabric comprised of a glass fiber yarn with a titer of from about 24 to about 1000 tex, preferably 272 tex, as the warp, and a glass fiber yarn having a titer ranging from about 68 to about 1200 tex, preferably from about 136 to about 900 tex, as the weft (see entire document including column 4, line 26 through column 5, line 31).

(Office Action, Page 3). The Office Action continues,

In the event that it is shown that the applied prior art does not disclose the claimed warp and weft titer with sufficient specificity, the invention is obvious because it would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the warp and weft titer to within the claimed ranges, because it is understood by one of ordinary skill in the art that the titer determines properties such as strength of the fabric, depth of pile, degree of loft of the loops, and appearance of the fabric, and because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

(Office Action, Page 4).

Kölzer is directed to the preparation of reinforced plastics containing a woven fabric as reinforcement, the fabric having expandable microspheres dispersed within the thread system of the fabric. When the microspheres are expanded by heating, the weft threads (covered) shrink slightly while the warp (covering) threads shrink substantially.

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The present claims are broadly directed to a woven, patterned glass fiber textile composed of a glass fiber warp yarn of a titer of 270 to 300 tex and a glass fiber weft yarn of a titer of 68 to 660 tex. It has been discovered by the Applicants that a woven glass fiber fabric can be manufactured with a patterned weave if the warp and weft yarns have a titer within the ranges recited in the present claims. This is quite surprising since the prior art has taught that Jacquard woven, patterned glass fiber fabrics can only be produced on a pattern-controlled Jacquard loom if the warp yarn density is tightly controlled to be in the range of 130 to 150 tex, preferably 139 to 142 tex. (See Moll at Column 1, Lines 20-30).

"In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992); MPEP § 2141.01(a).

Applicants respectfully submit that Kölzer is neither in the field of Applicants' endeavor nor reasonably pertinent to the particular problem with which the inventor was concerned, which is woven, patterned glass fiber textiles that are aesthetically pleasing. Thus, Kölzer may not be relied on as a basis for rejection of Applicants' invention.

Since Kölzer is directed to fiber reinforcement of plastics, the desirable characteristics of decorative textiles (e.g., patterns which appeal to consumers, flexibility, fineness, appearance, etc.) are not a consideration. A high titer may provide increased strength which is a desirable characteristic for reinforcement, but not necessarily a desirable characteristic for decorative woven fabrics.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal*

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Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); MPEP § 2131.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) ; MPEP § 2142.

Applicants respectfully submit that claim 1 is not anticipated as each and every element as set forth in the claim is not disclosed by Kölzer and that Kölzer does not disclose or suggest all the claim limitations. In particular, Kölzer does not disclose a woven, *patterned* glass fiber textile fabric comprised of a glass fiber yarn with a titer of from 270 to 300 tex as the warp, and a glass fiber yarn having a titer ranging from 68 to 660 tex as the weft.

A particular parameter must first be recognized as a result-effective variable, *i.e.*, a variable which achieves a recognized result, before the determination of the optimum or workable ranges of said variable might be characterized as routine experimentation. *In re Antonie*, 559 F.2d 618, 195 USPQ 6 (CCPA 1977); MPEP § 2144.05, Section II.B.

Applicants respectfully submit that the Examiner has not established that titer is a result-effective variable. In particular, the Examiner has merely asserted that "it is understood by one of ordinary skill in the art that the titer determines properties such as

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strength of the fabric, depth of pile, degree of loft of the loops, and appearance of the fabric." (Office Action, Page 4). There is no recognition in Kölzer of varying the titer to provide a patterned glass fiber textile that can be successfully woven. As titer has not been established as a result-effective variable, the determination of the optimum or workable ranges of titer cannot be characterized as routine experimentation.

It is not appropriate for the Examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art. *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420-21 (CCPA 1970); MPEP § 2144.03, Section A. If applicant adequately traverses the Examiner's assertion of official notice, the Examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. *See* 37 CFR 1.104(c)(2). *See also In re Zurko*, 258 F.3d 1379, 1386, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001); MPEP § 2144.03, Section C.

The Examiner has inappropriately taken official notice of facts, asserted to be well known but not capable of instant and unquestionable demonstration as being well-known (*i.e.*, titer determines properties such as strength of the fabric, depth of pile, degree of loft of the loops, and appearance of the fabric), without citing a prior art reference. The Examiner must provide documentary evidence in the next Office action if the rejection is to be maintained.

In any event, the motivation to modify the relied on prior art must flow from some teaching in the art that suggests the desirability or incentive to make the modification needed to arrive at the claimed invention. *In re Napier*, 55 F.2d 610, 613, 34 USPQ2d 1782, 1784

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(Fed. Cir. 1995). Obviousness cannot be established by modifying the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the modification. *In re Geiger*, 815 F.2d 686, 688, 2 USPQ2d 1276, 1278 (Fed. Cir. 1987).

The Examiner has failed to identify where in the prior art one of ordinary skill would have found a disclosure or suggestion which would have led him to make the proposed modification. *See In re Kotzab*, 27 F.3d 1365, 1371, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000) (wherein the court stated that particular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected the components for combination in the manner claimed). The absence of such particular findings in support of the rejection of claims 1-9 renders the rejection improper.

An adequate showing of motivation to combine requires evidence that a person of ordinary skill in the art would, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed. *Ecolchem Inc. v Southern Calif. Edison Co.*, 227 F.3d 1361, 1375, 56 USPQ2d 1065, 1075 (Fed. Cir. 2000), quoting *In re Rouffet*, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1456 (Fed. Cir. 1998).

The Examiner has not shown that the skilled artisan confronted with the problem of providing a process for preparing woven, patterned glass fiber textiles that are aesthetically pleasing would have modified Kölzer absent knowledge of the presently claimed textile fabric. Because the only reason or suggestion to modify the Kölzer comes from Applicants' disclosure, the rejection is improper.

Claims 2-9 depend, or ultimately depend, from claim 1, and thus, contain all the limitations of claim 1. In view of the above, the rejection of claims 1-9 under 35 U.S.C. §

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102(b) as allegedly anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly obvious over Kölzer should be withdrawn.

- II -

Claims 1-6 stand rejected under 35 U.S.C. § 102(e) as allegedly anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly obvious over U.S. Patent No. 6,667,097 ("Tokarsky"). Reconsideration and withdrawal of this rejection is requested for at least the following reasons.

Tokarsky is cited as disclosing

a woven (patterned) glass fiber textile fabric comprised of a glass fiber yarn with a titer of from about 30 to 5000 denier (3 to 556 tex) as the warp and weft (see entire document including column 17, lines 16-42, the paragraph bridging columns 17 and 18, and the paragraph bridging columns 36 and 37).

(Office Action, Page 5). The Office Action continues,

In the event that it is shown that the applied prior art does not disclose the claimed warp and weft titer with sufficient specificity, the invention is obvious because it would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the warp and weft titer to within the claimed ranges, because it is understood by one of ordinary skill in the art that the titer determines properties such as strength of the fabric, depth of pile, degree of loft of the loops, and appearance of the fabric, and because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

(Office Action, Page 5).

Tokarsky concerns melt spinning high viscosity fluoropolymers into single filaments or multi-filament yarns at high spinning speeds, the melt spinning being carried out at a temperature which is at least 90°C greater than the melting point of the polymer or in the case of perfluoropolymer, at a temperature of at least 450°C, and the yarns produced by the process, wherein the filaments can exhibit an orientation at the surface of the filament no greater than at the core of the filament. (Abstract).

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Applicants respectfully submit that Tokarsky is neither in the field of Applicants' endeavor nor reasonably pertinent to the particular problem with which the inventor was concerned, which is woven, patterned *glass* fiber textiles that are aesthetically pleasing. Thus, the *fluoropolymer* fibers of Tokarsky may not be relied on as a basis for rejection of Applicants' invention.

Applicants further respectfully submit that claim 1 is not anticipated as each and every element as set forth in the claim is not disclosed by Tokarsky and that Tokarsky does not disclose or suggest all the claim limitations. In particular, Tokarsky does not disclose a woven, *patterned* glass fiber textile fabric comprised of a glass fiber yarn with a *titer of from 270 to 300 tex as the warp*, and a glass fiber yarn having a *titer ranging from 68 to 660 tex as the weft*. Rather, Tokarsky merely discloses fluoropolymer multi-filament yarn generally having a denier of 30 to 5000. (Column 17, Lines 31-35).

As noted above, Applicants respectfully submit that the Examiner has not established that titer is a result-effective variable; thus, the determination of the optimum or workable ranges of titer cannot be characterized as routine experimentation, and the Examiner must provide documentary evidence in the next Office action if the rejection is to be maintained.

The Examiner has not shown that the skilled artisan confronted with the problem of providing a process for preparing woven, patterned glass fiber textiles that are aesthetically pleasing would have modified Tokarsky absent knowledge of the presently claimed textile fabric. Because the only reason or suggestion to modify the Tokarsky comes from Applicants' disclosure, the rejection is improper.

Claims 2-6 depend from claim 1, and thus, contain all the limitations of claim 1. In view of the above, the rejection of claims 1-6 under 35 U.S.C. § 102(b) as allegedly

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anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly obvious over Tokarsky should be withdrawn.

Claim Rejections – 35 U.S.C. § 103

- I -

Claim 10 stands rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Kölzer, and further in view of U.S. Patent No. 3,870,547 ("Workman"). Reconsideration and withdrawal of this rejection is requested for at least the following reasons.

Workman is cited as disclosing "that it is known in the glass fiber reinforced art to impregnate a glass fiber fabric with a binder comprising polymer and starch components". (Office Action, Page 6).

However, Workman fails to cure the above noted deficiencies of Kölzer, with respect to Claim 1. Accordingly, Appellant respectfully submits that Claim 10 is patentable over Kölzer and Workman for at least the same reasons as those discussed above regarding the rejection of claims 1-9 under 35 U.S.C. § 102(b) as allegedly anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly obvious over Kölzer.

- II -

Claims 7, 9, and 10 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Tokarsky, and further in view of U.S. Patent No. 6,337,104 ("Draxö") or 6,759,116 ("Edlund"). Reconsideration and withdrawal of this rejection is requested for at least the following reasons.

Draxö and Edlund are cited as each providing a "conventional teaching showing that it is known in the woven wall covering art to use a warp density of 3.15 to 3.4 threads/cm". (Office Action, Page 7).

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However, Draxö or Edlund fails to cure the above noted deficiencies of Tokarsky, with respect to Claim 1. Accordingly, Appellant respectfully submits that Claims 7, 9, and 10 are patentable over Tokarsky and Draxö or Edlund for at least the same reasons as those discussed above regarding the rejection of claims 1-6 under 35 U.S.C. § 102(b) as allegedly anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly obvious over Tokarsky.

- III -

Claims 7 and 8 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Tokarsky, and further in view of U.S. Patent No. 6,267,151 ("Moll"). Reconsideration and withdrawal of this rejection is requested for at least the following reasons.

Moll is cited as providing a "conventional teaching showing that it is known in the wall covering art to use warp densities of between 4 and 10 threads/cm". (Office Action, Page 8).

It is improper to combine references where the references teach away from their combination. *In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983); MPEP § 2145.

Moll clearly teaches away from exceeding the upper limit of 150 tex (\pm less than 10%) and discloses that that patterned glass fabrics "can be produced after all *by adhering to the above-addressed limiting values*". (Emphasis Added; Column 1, Lines 44-49). Thus, the proposed combination of Moll with Tokarsky is improper, as Moll teaches away from exceeding the upper limit of 150 tex.

Moreover, Moll fails to cure the above noted deficiencies of Tokarsky, with respect to Claim 1. Accordingly, Appellant respectfully submits that Claims 7 and 8 are patentable over Tokarsky and Moll for at least the same reasons as those discussed above regarding the

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rejection of claims 1-6 under 35 U.S.C. § 102(b) as allegedly anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly obvious over Tokarsky.

- IV -

Claims 1-6 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over U.S. Patent No. 4,586,934 ("Blalock"). Reconsideration and withdrawal of this rejection is requested for at least the following reasons.

Blalock is cited as disclosing "a woven (patterned) glass fiber textile fabric comprised of a glass fiber yarn with a titer of 333 or 666 tex as the warp and weft (see entire document including column 2, lines 49-59, column 5, lines 18-33, and Example 1)." (Office Action, Page 9). The Office Action continues,

Although Blalock does not specifically mention a warp and weft yarn titer of from 270 to 300 tex, absent a showing of unexpected results from use of a titer of from 270 to 300 tex as the warp, it would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the titer of the warp and weft fiber, such as from 270 to 300 tex, because it is understood by one of ordinary skill in the art that the titer determines properties such as strength of the fabric, depth of pile, degree of loft of the loops, and appearance of the fabric, and because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

(Office Action, Page 9).

Blalock discloses a method and apparatus for producing textile yarns so that one surface of the yarn exhibits a visually perceptive darker color hue when compared to another surface of the yarn. (Abstract). Rather than disclosing a "fabric comprised of a glass fiber yarn *with a titer of 333 or 666 tex as the warp and weft*" (emphasis added), Blalock actually discloses that particularly preferred yarns include glass sliver yarns, and that "[a] particularly suitable glass sliver yarn is identified as 666 TEX and is manufactured by The Schuller Company in Europe" and that "[a]nother suitable glass sliver yarn is 333 TEX". (Column 5, Lines 18-33).

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Applicants respectfully submit that Blalock does not disclose or suggest all the claim limitations. In particular, Blalock does not disclose a woven, patterned glass fiber textile fabric comprised of a glass fiber yarn with a *titer of from 270 to 300 tex as the warp*, and a glass fiber yarn having a *titer ranging from 68 to 660 tex as the weft*. Rather, Blalock merely discloses a glass sliver yarn *identified as 666 TEX or 333 TEX*.

As noted above, Applicants respectfully submit that the Examiner has not established that titer is a result-effective variable; thus, the determination of the optimum or workable ranges of titer cannot be characterized as routine experimentation, and the Examiner must provide documentary evidence in the next Office action if the rejection is to be maintained.

Furthermore, in rejecting claims under 35 U.S.C. §103, the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. *In re Oetiker*, 977 F.2d at 1445, 24 USPQ2d at 1444. Only if that burden is met, does the burden of coming forward with evidence or argument shift to the applicant. Since the Examiner has not established a *prima facie* case of obviousness for reasons presented above, Applicants do not have to provide evidence of unexpected results.

The Examiner has not shown that the skilled artisan confronted with the problem of providing a process for preparing woven, patterned glass fiber textiles that are aesthetically pleasing would have modified Blalock absent knowledge of the presently claimed textile fabric. Because the only reason or suggestion to modify the Blalock comes from Applicants' disclosure, the rejection is improper.

Claims 2-6 depend from claim 1, and thus, contain all the limitations of claim 1. In view of the above, the rejection of claims 1-6 under 35 U.S.C. § 103(a) as allegedly obvious over Blalock should be withdrawn.

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- V -

Claims 7, 9, and 10 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Blalock, and further in view of Draxö or Edlund. Reconsideration and withdrawal of this rejection is requested for at least the following reasons.

Draxö and Edlund are cited as each providing a "conventional teaching showing that it is known in the woven wall covering art to use a warp density of 3.15 to 3.4 threads/cm". (Office Action, Page 10).

However, Draxö or Edlund fails to cure the above noted deficiencies of Blalock, with respect to Claim 1. Accordingly, Appellant respectfully submits that Claims 7, 9, and 10 are patentable over Blalock and Draxö or Edlund for at least the same reasons as those discussed above regarding the rejection of claims 1-6 under 35 U.S.C. § 103(a) as allegedly obvious over Blalock.

- VI -

Claims 7 and 8 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Blalock, and further in view of Moll. Reconsideration and withdrawal of this rejection is requested for at least the following reasons.

Moll is cited as providing a "conventional teaching showing that it is known in the wall covering art to use warp densities of between 4 and 10 threads/cm". (Office Action, Page 12).

Moll clearly teaches away from exceeding the upper limit of 150 tex (\pm less than 10%) and discloses that that patterned glass fabrics "can be produced after all *by adhering to the above-addressed limiting values*". (Emphasis Added; Column 1, Lines 44-49). Thus, the proposed combination of Moll with Blalock is improper, as Moll teaches away from exceeding the upper limit of 150 tex.

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Moreover, Moll fails to cure the above noted deficiencies of Blalock, with respect to Claim 1. Accordingly, Appellant respectfully submits that Claims 7 and 8 are patentable over Blalock and Moll for at least the same reasons as those discussed above regarding the rejection of claims 1-6 under 35 U.S.C. § 103(a) as allegedly obvious over Blalock.

- VII -

Claims 1-7, 9, and 10 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Draxö or Edlund in view of Tokarsky. Reconsideration and withdrawal of this rejection is requested for at least the following reasons.

Draxö and Edlund are cited as each disclosing "a woven patterned glass fiber textile fabric comprised of a glass fiber yarn with a titer of 139 to 142 tex as the warp, and a glass fiber yarn having a titer ranging from 165 to 550 tex as the weft (see entire documents including column 2, lines 40-61 of Draxo and column 2, lines 35-54 of Edlund." (Office Action, Page 12). The Office Action continues,

Draxo and Edlund each disclose that many glass fiber yarns may be selected for use when producing the woven materials, but neither appears to specifically mention a titer of from 270 to 300 tex as the warp. Tokarsky, however, discloses that it is known in the woven wall covering art (paragraph bridging columns 17 and 18, column 44, lines 55-65, and column 45, lines 35-47) to vary the denier (tex) of a fabric from 30 to 5000 (column 17, 17-42). Absent a showing of unexpected results from use of a titer of from 270 to 300 tex as the warp, it would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the titer of the warp and weft fiber, such as from 270 to 300 tex, because it is understood by one of ordinary skill in the art that the titer determines properties such as strength of the fabric, depth of pile, degree of loft of the loops, and appearance of the fabric, and because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

(Office Action, Pages 12-13).

As noted above, Applicants respectfully submit that Tokarsky is neither in the field of Applicants' endeavor nor reasonably pertinent to the particular problem with which the inventor was concerned, which is woven, patterned *glass* fiber textiles that are aesthetically

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pleasing. Thus, the *fluoropolymer* fibers of Tokarsky may not be relied on as a basis for rejection of Applicants' invention.

As also noted above, Tokarsky does not disclose a glass fiber yarn with a *titer of from 270 to 300 tex as the warp*, and a glass fiber yarn having a *titer ranging from 68 to 660 tex as the weft*. Rather, Tokarsky merely discloses fluoropolymer multi-filament yarn generally having a denier of 30 to 5000. (Column 17, Lines 31-35).

Applicants respectfully submit that those of ordinary skill in the art seeking to modify the woven fabrics of Draxö and Edlund would not have been motivated to look to the fluoropolymer fibers of Tokarsky. Applicants further respectfully submit that there would not have been a reasonable expectation of success in so modifying the textiles of Draxö and Edlund.

The argument in the Office Action that it would have been obvious, in the absence of unexpected results, to increase the titer of the warp yarn in the fabrics of Draxö and Edlund since, in effect, the titer is a result-effective variable, is unsound because in general, increasing the titer tends to increase the coarseness and stiffness of the yarn, *i.e.*, the lower the titer, the finer and more flexible the fabric. There would have been no motivation to increase the stiffness and therefore reduce the fineness of the fabrics of Draxö or Edlund since the references are concerned with decorative fabrics which are flexible and have a decorative appeal to consumers.

Additionally, as noted above, Applicants respectfully submit that the Examiner has not established that titer is a result-effective variable; thus, the determination of the optimum or workable ranges of titer cannot be characterized as routine experimentation, and the Examiner must provide documentary evidence in the next Office action if the rejection is to be maintained.

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Further, as also noted above, since the Examiner has not established a *prima facie* case of obviousness, Applicants do not have to provide evidence of unexpected results.

The Examiner has not shown that the skilled artisan confronted with the problem of providing a process for preparing woven, patterned glass fiber textiles that are aesthetically pleasing would have combined Tokarsky with Draxö or Edlund absent knowledge of the presently claimed textile fabric. Because the only reason or suggestion to combine Draxö or Edlund and Tokarsky comes from Applicants' disclosure, the rejection is improper.

Claims 2-7, 9, and 10 depend from claim 1, and thus, contain all the limitations of claim 1. In view of the above, the rejection of claims 1-7, 9, and 10 under 35 U.S.C. § 103(a) as allegedly obvious over Draxö or Edlund in view of Tokarsky should be withdrawn.

- VIII -

Claims 7 and 8 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Draxö or Edlund in view of Tokarsky, and further in view of Moll. Reconsideration and withdrawal of this rejection is requested for at least the following reasons.

Moll is cited as providing a "conventional teaching showing that it is known in the wall covering art to use warp densities of between 4 and 10 threads/cm". (Office Action, Page 14).

Moll clearly teaches away from exceeding the upper limit of 150 tex (\pm less than 10%) and discloses that that patterned glass fabrics "can be produced after all *by adhering to the above-addressed limiting values*". (Emphasis Added; Column 1, Lines 44-49). Thus, the proposed combination of Moll with Draxö or Edlund and Tokarsky is improper, as Moll teaches away from exceeding the upper limit of 150 tex.

Moreover, Moll fails to cure the above noted deficiencies of Draxö or Edlund and Tokarsky, with respect to Claim 1. Accordingly, Appellant respectfully submits that Claims

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7 and 8 are patentable over Draxö or Edlund, Tokarsky, and Moll for at least the same reasons as those discussed above regarding the rejection of claims 1-7, 9, and 10 under 35 U.S.C. § 103(a) as allegedly obvious over Draxö or Edlund in view of Tokarsky.

- IX -

Claims 1-7, 9, and 10 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Draxö or Edlund in view of Blalock. Reconsideration and withdrawal of this rejection is requested for at least the following reasons.

Draxö and Edlund are cited as each disclosing "a woven patterned glass fiber textile fabric comprised of a glass fiber yarn with a titer of 139 to 142 tex as the warp, and a glass fiber yarn having a titer ranging from 165 to 550 tex as the weft (see entire documents including column 2, lines 40-61 of Draxo and column 2, lines 35-54 of Edlund." (Office Action, Page 14). The Office Action continues,

Draxo and Edlund each disclose that many glass fiber yarns may be selected for use when producing the woven materials, but neither appears to specifically mention a titer of from 270 to 300 tex as the warp. Blalock, however, discloses that it is known in the woven wall covering art (column 1, lines 15-25) to use a glass fiber yarn with a titer of up to 666 tex (specific reference is made of 333 tex and 666 tex, see column 5, lines 18-33 and Example 1). Absent a showing of unexpected results from use of a titer of from 270 to 300 tex as the warp, it would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the titer of the warp and weft fiber, such as from 270 to 300 tex, because it is understood by one of ordinary skill in the art that the titer determines properties such as strength of the fabric, depth of pile, degree of loft of the loops, and appearance of the fabric, and because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

(Office Action, Pages 14-15).

As noted above, Blalock does not disclose a glass fiber yarn with a *titer of from 270 to 300 tex as the warp*, and a glass fiber yarn having a *titer ranging from 68 to 660 tex as the weft*. Rather, Blalock discloses that particularly preferred yarns include glass sliver yarns, and that "[a] particularly suitable glass sliver yarn is identified as 666 TEX and is

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manufactured by The Schuller Company in Europe" and that "[a]nother suitable glass sliver yarn is 333 TEX". (Column 5, Lines 18-33).

Applicants respectfully submit that those of ordinary skill in the art seeking to modify the woven fabrics of Draxö and Edlund would not have been motivated to look to the yarns of Blalock. Applicants further respectfully submit that there would not have been a reasonable expectation of success in so modifying the textiles of Draxö and Edlund.

The argument in the Office Action that it would have been obvious, in the absence of unexpected results, to increase the titer of the warp yarn in the fabrics of Draxö and Edlund since, in effect, the titer is a result-effective variable, is unsound because in general, increasing the titer tends to increase the coarseness and stiffness of the yarn, *i.e.*, the lower the titer, the finer and more flexible the fabric. There would have been no motivation to increase the stiffness and therefore reduce the fineness of the fabrics of Draxö or Edlund since the references are concerned with decorative fabrics which are flexible and have a decorative appeal to consumers.

Additionally, as noted above, Applicants respectfully submit that the Examiner has not established that titer is a result-effective variable; thus, the determination of the optimum or workable ranges of titer cannot be characterized as routine experimentation, and the Examiner must provide documentary evidence in the next Office action if the rejection is to be maintained.

Further, as also noted above, since the Examiner has not established a *prima facie* case of obviousness, Applicants do not have to provide evidence of unexpected results.

The Examiner has not shown that the skilled artisan confronted with the problem of providing a process for preparing woven, patterned glass fiber textiles that are aesthetically pleasing would have combined Blalock with Draxö or Edlund absent knowledge of the

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presently claimed textile fabric. Because the only reason or suggestion to combine Draxö or Edlund and Blalock comes from Applicants' disclosure, the rejection is improper.

Claims 2-7, 9, and 10 depend from claim 1, and thus, contain all the limitations of claim 1. In view of the above, the rejection of claims 1-7, 9, and 10 under 35 U.S.C. § 103(a) as allegedly obvious over Draxö or Edlund in view of Blalock should be withdrawn.

- X -

Claims 7 and 8 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Draxö or Edlund in view of Blalock, and further in view of Moll. Reconsideration and withdrawal of this rejection is requested for at least the following reasons.

Moll is cited as providing a "conventional teaching showing that it is known in the wall covering art to use warp densities of between 4 and 10 threads/cm". (Office Action, Page 16).

Moll clearly teaches away from exceeding the upper limit of 150 tex (\pm less than 10%) and discloses that that patterned glass fabrics "can be produced after all *by adhering to the above-addressed limiting values*". (Emphasis Added; Column 1, Lines 44-49). Thus, the proposed combination of Moll with Draxö or Edlund and Blalock is improper, as Moll teaches away from exceeding the upper limit of 150 tex.

Moreover, Moll fails to cure the above noted deficiencies of Draxö or Edlund and Blalock, with respect to Claim 1. Accordingly, Appellant respectfully submits that Claims 7 and 8 are patentable over Draxö or Edlund, Blalock, and Moll for at least the same reasons as those discussed above regarding the rejection of claims 1-7, 9, and 10 under 35 U.S.C. § 103(a) as allegedly obvious over Draxö or Edlund in view of Blalock.

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From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order and such action is earnestly solicited. If there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned at (303) 978-3927) at his earliest convenience.

Respectfully submitted,

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